

Translation

PATENT COOPERATION TREATY

PCT

09/926,129

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 40135	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP00/02030	International filing date (day/month/year) 08 March 2000 (08.03.00)	Priority date (day/month/year) 08 March 1999 (08.03.99)
International Patent Classification (IPC) or national classification and IPC A61B 5/22		
Applicant STEGMANN, Heiner		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 2 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☐ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 29 September 2000 (29.09.00)	Date of completion of this report 15 June 2001 (15.06.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP00/02030

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

- ☒ the international application as originally filed.
- ☒ the description, pages 1-3,6,7, as originally filed,  
pages \_\_\_\_\_, filed with the demand,  
pages 4,5, filed with the letter of 28 March 2001 (28.03.2001),  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the claims, Nos. 1-5, as originally filed,  
Nos. \_\_\_\_\_, as amended under Article 19,  
Nos. \_\_\_\_\_, filed with the demand,  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
Nos. \_\_\_\_\_, filed with the letter of \_\_\_\_\_.
- ☒ the drawings, sheets/fig 1/2, 2/2, as originally filed,  
sheets/fig \_\_\_\_\_, filed with the demand,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_,  
sheets/fig \_\_\_\_\_, filed with the letter of \_\_\_\_\_.

2. The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

3. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

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## III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application.
- ☒ claims Nos. 1-5

because:

- ☒ the said international application, or the said claims Nos. 1-5 relate to the following subject matter which does not require an international preliminary examination (*specify*):

See supplemental sheet

- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. \_\_\_\_\_ are so unclear that no meaningful opinion could be formed (*specify*):

- ☐ the claims, or said claims Nos. \_\_\_\_\_ are so inadequately supported by the description that no meaningful opinion could be formed.

- ☐ no international search report has been established for said claims Nos. \_\_\_\_\_

**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III

The measurement of time-dependent changes in lactate concentration claimed in the method as per Claim 1 is carried out using blood samples and implies therefore the invasive removal of same from patients (see p.2, second paragraph, and the article by Stegmann et al., p.163, left-hand column, first paragraph, cited on page 2 of the description). Claims 1-5 are therefore concerned with a subject matter mentioned in PCT Rule 67.1(iv), that is, a surgical method, for which a preliminary examination may not be carried out (PCT Article 34(4)(a)(i)).